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| EXAMINER | |
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| PIZIALI, JEFFREY J | |
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

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*Ex parte* MASUMITSU INO, HIROYOSHI TSUBOTA,
HIROAKI ICHIKAWA, SHINICHI TERAGUCHI, TAKETO OKA,
TORU AKUTAGAWA, TOSHIKAZU MAEKAWA,
YOSHIHARU NAKAJIMA, and NAOSHI GOTO

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Appeal 2010-001223
Application 09/424,544
Technology Center 2600

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Before MAHSHID D. SAADAT, MARC S. HOFF,
and CARLA M. KRIVAK, *Administrative Patent Judges*.

SAADAT, *Administrative Patent Judge*.

DECISION ON REQUEST FOR REHEARING

Appellants request rehearing of the September 7, 2011, Decision on Appeal ("Decision"), wherein we affirmed the rejections of claims 25-29, 31, 37, and 43-78 under 35 U.S.C. §§ 102 and 103. However, we reversed the rejection of claims 25-29, 31, 37, 43-48, and 67-78 under 35 U.S.C. § 112, second paragraph. We have reconsidered the Decision in light of Appellants' arguments but, for the reasons given below, are not persuaded of any error therein.

Appellants rely on the provisions of 37 C.F.R. § 41.50(a)(1) and argue that our designation of the decision as "affirmed" instead of "affirmed-in-part" was in error because the Decision did not sustain the rejection of claims 25-29, 31, 37, 43-48, and 67-78 under 35 U.S.C. § 112 (Req. Reh'g 2-3). These arguments are unpersuasive because the relied on provision of rule 41.50 indicates:

> The affirmance of the rejection of a claim *on any of the grounds specified constitutes a general affirmance of the decision of the examiner on that claim*, except as to any ground specifically reversed.
> (Emphasis added.)

Therefore, since we affirmed all the claims on at least one ground of rejection, the Decision was correctly designated as an "affirmance."

We also disagree with Appellants' arguments regarding the rejection of claim 48, alleging that our Decision did address separate arguments presented for this claim (Req. Reh'g 4-7). The Board explicitly adopted as its own the Examiner's findings and conclusions stated on pages 52-54 of the Answer, which addressed the arguments made in support of the patentability of claim 48 (Decision 7).

## CONCLUSION

In view of the foregoing discussion, we grant Appellants' Request for Rehearing to the extent that we have reconsidered our decision, but we deny Appellants' request to make any change therein.

## ORDER

The request for rehearing is denied.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(v).

REHEARING DENIED

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